

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Jonathan Buchspies
1480 Route 46, Apt 314-B
Parsippany, NJ 07054

(b) County of Residence of First Listed Plaintiff Morris
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Graham F. Baird, Law Office of Eric A. Shore
2 Penn Center, 1500 JFK Blvd, Suite 1240, Philadelphia, PA 19102
Tel: 267-546-0131

DEFENDANTS

Pfizer, Inc.
400 Webro Road
Parsippany, NJ 07054

County of Residence of First Listed Defendant Morris
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

N.J.S.A. 34:11-562, et seq.

Brief description of cause:

Failure to Pay Overtime

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
150,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/13/18

SIGNATURE OF ATTORNEY OF RECORD

Graham F. Baird

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Defendant.

Civil Action No. _____

1

This Court has supplemental jurisdiction over related state law claims because they arise out of the same circumstances and are based upon a common nucleus of operative fact.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b)(1) and (b)(2) because Defendant resides in and conducts business in this judicial district and because a substantial part of the acts and/or omissions giving rise to the claims set forth herein occurred in this judicial district.

II. FACTUAL ALLEGATIONS

9. Defendant Pfizer is an American pharmaceutical corporation.

10. Defendant is an employer covered by the record-keeping minimum wage, wage payment and overtime pay mandates of the Fair Labor Standards Act (“FLSA”) and the New Jersey Wage and Hour Laws (“NJWHL” or “New Jersey Wage and Hour Laws”), N.J.S.A. 34:11-562, *et seq.*, and N.J.A.C. 12:56, *et seq.*

11. In 2013, Defendant hired Mr. Buchspies to work at its facility located in Parsippany, New Jersey.

12. Mr. Buchspies worked as a chemical analyst in a pharmaceutical laboratory. While working as a chemical analyst, Defendant’s payroll system classified him as an “overtime eligible employee.”

13. Two weeks before his termination, Mr. Buchspies raised complaints with human resources regarding his unpaid overtime.

14. On May 17, 2018, Defendant terminated Mr. Buchspies’ employment and did not explain any reason for the termination.

15. At all times relevant to this complaint, Plaintiff’s base rate of pay was set by the Defendant approximately \$34.00 per hour.

16. While employed by Defendant, Plaintiff often worked longer hours than the forty (40) hour work week.

17. Upon information and belief, Defendant set the Plaintiff's weekly work schedule, deciding where and when the Plaintiff would work.

18. Despite working more than forty (40) hours per week, the Plaintiff never received overtime pay.

19. Each and every hour that Plaintiff worked for Defendant was paid at the straight time rate of approximately \$34.00 per hour.

20. Upon information and belief, Defendant determined Plaintiff's base wages and decided not to pay Plaintiff overtime for hours worked more than forty (40) hours per week.

21. Throughout Plaintiff's employment with Defendant, Plaintiff was not an "exempt" employee as defined under the FLSA.

III. CAUSES OF ACTION

COUNT I

Violation of the Fair Labor Standards Act (Failure to Pay Overtime Compensation)

22. Plaintiff incorporates by reference Paragraphs 1 through 21 as if fully set for herein.

23. At all times relevant herein, Defendant was an "employer" within the meaning of the FLSA.

24. At all times relevant herein, Defendant was responsible for paying wages to Plaintiff.

25. At all times relevant herein, Plaintiff was an "employee" of Defendant within the meaning of the FLSA.

26. Plaintiff was not an “exempt” employee for purposes of the overtime provisions of the FLSA.

27. Defendant failed to pay Plaintiff for hours he worked greater than forty (40) per workweek.

28. Under the FLSA, an employer must pay an employee who is not exempt from the overtime provisions of law at least one and one-half times his base rate for each hour worked more than forty (40) hours per workweek.

29. Defendant’s violations of the FLSA include not paying Plaintiff any overtime pay for overtime hours spent above the forty hours Plaintiff each week.

30. Defendant’s conduct in failing to pay Plaintiff was willful and not based upon any reasonable interpretation of the law.

31. As a result of Defendant’s unlawful conduct, Plaintiff has suffered damages as set forth herein.

COUNT II
Violation of New Jersey Wage Laws
(Failure to Pay Overtime Compensation)

32. Plaintiff incorporates by reference Paragraphs 1 through 31 as if fully set forth herein.

33. At all times relevant herein, Defendant was Plaintiff’s “employer” within the meaning of the New Jersey Wage Laws.

34. At all times relevant herein, Defendant was responsible for paying wages to the Plaintiff.

35. Under the New Jersey Wages Laws, an employer must pay a non-exempt employee at least one and one-half times his base rate for each hour worked greater than forty (40) hours per workweek.

36. At all relevant times herein, Plaintiff was not an “exempt” employee for purposes of the overtime provisions of the New Jersey Wage Laws.

37. Defendant’s violations of the New Jersey Wage Laws include failing to pay Plaintiff for hours worked by him more than forty (40) per workweek.

38. Defendant’s conduct in failing to pay Plaintiff properly was willful and was not based upon any reasonable interpretation of the law.

39. As a result of Defendant’s unlawful conduct, Plaintiff has suffered damages as set forth herein.

COUNT III
FLSA--RETALIATION
(29 U.S.C.A. § 215(a)(3))
(Plaintiffs v. Defendants)

40. Plaintiff incorporates paragraphs 1-39 as if fully set forth at length herein.

41. As set forth above, Plaintiff made a complaint about his wages, excessive hours and overtime, and as such, Plaintiff was engaged in protected activity under the Fair Labor Standards Act, 29 U.S.C.A. § 215(a)(3).

42. Defendant took adverse action against Plaintiff by terminating his employment.

43. As set forth above, Plaintiff’s participation in protected activity was a motivating factor in Defendant’s decision to terminate his employment.

44. As such, Defendant's decision to terminate Plaintiff's employment is a retaliatory action prohibited by the Fair Labor Standards Act, 29 U.S.C.A. § 215(a)(3) Fair Labor Standards Act, 29 U.S.C.A. § 215(a)(3).

45. As a proximate result of Defendant's conduct, Plaintiff sustained significant damages, including but not limited to: great economic loss, future lost earning capacity, lost opportunity, loss of future wages, loss of front pay, loss of back pay, as well as emotional distress, mental anguish, humiliation, pain and suffering, consequential damages and Plaintiff also sustained work loss, loss of opportunity, and a permanent diminution of earning power and capacity and a claim is made therefore.

64. As a result of the conduct of Defendant's owners/management, Plaintiff hereby demands punitive damages.

65. Pursuant to the Fair Labor Standards Act, 29 U.S.C.A. § 210 et seq., Plaintiff demands attorneys fees and court costs.

IV. RELIEF REQUESTED

WHEREFORE, Plaintiff Jonathan Buchspies demands judgment in his favor and against Defendant and that this Court enter an Order providing that:

A. Defendant is to compensate, reimburse, and make Plaintiff whole for any and all pay and benefits he would have received had it not been for Defendant's illegal actions, including but not limited to past lost earning. Plaintiff should be accorded those benefits illegally withheld;

B. Plaintiff is to be awarded liquidated damages as applicable under the Fair Labor Standards Act and New Jersey Wage Laws in an amount equal to the actual damages in this case.

C. Plaintiff is to be awarded the costs and expenses of this action and reasonable attorneys' fees as provided by applicable federal and state law.

D. Any other further relief this Court deems just proper and equitable.

Date: November 13, 2018

LAW OFFICES OF ERIC A. SHORE, P.C.

BY: 

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